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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,322	02/19/2004	Nicola John Policicchio	9164M	6151

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CINCINNATI, OH 45224

EXAMINER

CARRILLO, BIBI SHARIDAN

ART UNIT	PAPER NUMBER
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1746

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/782,322

Applicant(s)

POLICICCHIO ET AL.

Examiner

Sharidan Carrillo

Art Unit

1746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08202004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 47 and 49-55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 47 and 49-55 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

  
SHARIDAN CARRILLO  
PRIMARY EXAMINER

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 08202004.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 49 and 55 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a paraffin or paraffin/mineral oil blend having an  $R_t$  greater than about 94%, does not reasonably provide enablement for any additive with an  $R_t$  greater than 94%, based on applicant's list of  $R_t$  values as recited in Table 3.. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention commensurate in scope with these claims.

The claims embrace an invention which contains any known additive, which could/can be selected from literally thousands. It does not appear to be feasible that any additive would function in the present invention. Further, for one skilled in the art to reproduce the present invention (which must be possible, if the specification is adequate), there would clearly be undue experimentation to do so in an attempt to figure out which additives work and which ones do not.

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Art Unit: 1746

4. Claims 53-54 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The limitations of claims 53-54 constitute new matter, the limitations of which are not taught by the specification as originally filed.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 51 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 51 is indefinite because it recites a plurality of first additives.

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

Art Unit: 1746

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 47, 49, and 52-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Childs et al. (WO02/083834).

Childs et al. teach a cleaning sheet comprising a plurality of layers in which can additive an be added to the cleaning sheet (page 5). Childs et al. teach the cleaning sheet having an additive material comprising wax, or a mixture of wax and mineral oil, the additive material affixed to the cleaning sheet at an add-on level of at least about 0.04g/m<sup>2</sup> and more preferably at least about 2.5g/m<sup>2</sup> (page 16). Page 17 teaches the additive comprising microcrystalline wax. In reference to claims 47 and 55, Childs et al. fail to teach the specified Rt values. However, one would have reasonably expected the additives of the cleaning sheet of Childs et al. to have the claimed Rt values since the reference teach using the same components as the claimed invention. In reference to

Art Unit: 1746

claim 49, refer to page 18. In reference to claim 52, refer to page 4. In reference to claims 53-54, refer to page 4.

11. Claim 50 is rejected under 35 U.S.C. 103(a) as being unpatentable over Childs et al. (WO02/083834) as applied to claims 47, 49, and 52-55 as described in paragraph 9 above, and further in view of Kacher et al. (WO01/11004).

Childs et al. teach the invention substantially as claimed with the exception of instructions printed on the sides of the wipe. Kacher et al. teach a cleaning sheet comprising additives made of wax or mixture of wax and oil. On page 18, Kacher et al. the wipe and a set of instructions printed on the cleaning sheet so as to communicate the use to the consumer.

It would have been obvious to a person of ordinary skill in the art to have modified the method of Childs et al., to include instructions, as taught by Kacher et al., for purposes of communicating the use to the consumer.

12. Claim 51 is rejected under 35 U.S.C. 103(a) as being unpatentable over Childs et al. (WO02/083834) as applied to claims 47, 49, and 52-55 as described in paragraph 9 above, and further in view of Bergsten et al. (US2003/0171051).

Childs et al. fail to teach the addition of colored dyes. Bergsten et al. teach a cleaning sheet having an additive selected from the group consisting of wax and oil. Paragraph 51 teaches it is conventional to include other additives such as colorants. It would have been within the level of the skilled artisan to modify the method of Childs et al., to include colorants, as taught by Bergsten et al., which are conventionally used for imparting color to the cleaning sheet.

***Response to Arguments***

13. The rejections of the claims as unpatentable over Kacher et al. are withdrawn in view of a new grounds of rejection. The limitations of 0.1g/m<sup>2</sup> and 2.3 g/m<sup>2</sup> are taught by the prior art of Childs et al. as described above.

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharidan Carrillo whose telephone number is 571-272-1297. The examiner can normally be reached on Monday-Friday, 6:00a.m-2:30pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on 571-272-1414. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1746

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sharidan Carrillo  
Primary Examiner  
Art Unit 1746

bsc



SHARIDAN CARRILLO  
PRIMARY EXAMINER